

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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Investigation by the Department of)	
Telecommunications and Energy on its)	
own motion, to investigate increasing the)	D.T.E. 01-106
Penetration rate for discounted electric,)	
gas, and telephone service)	
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COMMENTS OF THE COMMONWEALTH OF MASSACHUSETTS

DIVISION OF ENERGY RESOURCES

The Massachusetts Division of Energy Resources (“DOER”) appreciates the opportunity to submit comments concerning the Department of Telecommunications and Energy (“DTE”, “Department”) Notice of Inquiry, D.T.E. 01-106.

The Department has solicited comments regarding the effectiveness of current outreach programs with the intent to improve both the efficacy of the enlistment process and the number of program participants. After providing some background explaining DOER’s involvement with low-income outreach activities in the Commonwealth, we shall comment on each of the questions posed by the Department in chronological order.

Background

Though not the regulatory agency directed to administer low-income eligibility for gas, electric, and telephone discount programs, DOER is mandated by statute to

collect relevant data and report to the Department concerning the efforts of electric distribution companies. We have no such role with respect to gas or telephone discount programs. Our comments summarize the outreach activities that the electric distribution companies conducted during the first three years of the discount rate. M.G.L. c. 164, §1F (4)(i) defines eligibility for the electric residential discount rate (RDR). To receive the discount rate, Massachusetts' households must meet two criteria. First, a household member must receive a means tested public benefit (such as Transitional Assistance) or be eligible for the Low-Income Home Energy Assistance Program (LIHEAP)¹. Second, total household income cannot exceed 175 percent of the Federal Poverty Level (FPL)².

Additionally, each electric distribution company is to conduct substantial outreach to eligible households and annually report to the Division of Energy Resources (DOER) on the activities and results.³

Question 1: Describe outreach efforts to identify eligible discount customers.

A. Pursuant to Statute, DOER established Program Guidelines

The role assigned to DOER, as regards promoting the search for and enrollment of eligible discount customers, is found pursuant to M.G.L. c. 164, §1F (4)(i) directing the DOER to establish eligibility guidelines and requiring each electric distribution company to report to DOER, at least annually, about its outreach activities and results. In

¹ G.L. c 164, § 1F (4)(i)

² Id.

³ Id.

response to that mandate DOER published *The Low-Income Outreach & Eligibility Guidelines* to assist electric distribution companies in identifying Residential Discount Rate Eligible (RDRE) households and enrolling them as RDR customers. Prior to issuance, the DOER convened a series of meetings, beginning in September of 1998, of low-income advocates, federal and state representatives, and electric distribution companies. In December of 1998, DOER prepared the *Findings and Guidelines*. Given the importance and complexity of the changes and verification procedures, DOER issued the Guidelines with the caveat that an evaluation of their effectiveness might warrant further modifications by DOER under its authority consistent with G.L. c. 25A sec. 6 to promulgate rules and regulations.

The *Outreach Guidelines* require electric distribution companies to:

- ?? Work with the Department of Revenue (DOR) Child Support Division to inform their clients of the availability of the discount
- ?? Adopt “Discount Rate” as the new name for the low-income rate
- ?? Change all financial hardship forms to reflect the new name
- ?? Provide quarterly notification of the availability of the discount rate via bill inserts and newsletters
- ?? Set up point-of-purchase displays with the state and federal agencies that offer qualifying benefits
- ?? Work with schools/camps to reach families in the Head Start and National School Breakfast and Lunch Programs and
- ?? Establish a separate toll-free telephone number for discount rate inquiries

B. Modes of Outreach

The electric distribution companies filed annual reports in 1999, 2000, and 2001⁴. In 1999, the electric distribution companies emphasized compliance with the administrative guidelines; adopting the term “discount rate”, setting up 800 numbers, changing the financial hardship forms and providing quarterly updates to customers. In addition, during 1999, most of the electric distribution companies developed point-of purchase displays, though not all worked with DOR or schools/camps to reach School Breakfast/Lunch and Head Start Program households. Massachusetts Electric (MECO, a National Grid Company) and Western Massachusetts Electric (WMECO) fully complied with these two aspects of the guidelines. In 2000, the electric distribution companies expanded their point-of-purchase displays to more community agencies. However, as in 1999, they made little progress implementing the DOR and School Lunch portions of the guidelines. Preliminary data in 2001 suggests that some electric distribution companies increased community outreach activities. Until met with several retail chains to request distribution of RDR pamphlets to employees and customers, while MECO ran a media campaign. Despite these efforts, full compliance by the electric distribution companies with the guidelines is lacking.

Overall, full compliance with all the guidelines remains an issue. The electric distribution companies should continue to develop their ability to reach customers who

⁴ The electric distribution companies filing reports in 1999 were, Boston Edison (BECO), Commonwealth Electric (also filed for Cambridge Electric), NEES (filing for Massachusetts Electric Co (MECO) and Nantucket Electric), Eastern Edison, Western Massachusetts Electric (WMECO) and Until (filing for Fitchburg Gas & Electric). Following mergers, the electric distribution companies submitting reports for 2000 and 2001 were National Grid, NSTAR, Until, and WMECO.

are outside the social service agencies, including expanding their efforts to include the Department of Revenue, local media, and other community outlets. A varied outreach plan that incorporates the guidelines, while using community resource groups appears to be the most effective means to inform customers of the availability of the RDR.

C. Degree of Discount Rate Penetration

The annual filings also include data on the number of Residential Discount Rate (RDR) customers in 1997 (pre-deregulation), 1998, 1999, and 2000. A year-to-year comparison shows a drop in RDR enrollment from 1997 to 1998, attributable to the many demands of the initial year of restructuring. Since the implementation of the Outreach Guidelines, the number of customers on the RDR has fluctuated. Enrollment of RDR customers rose in 1999 over pre-deregulation levels but then fell in 2000. The 2001 DOER Customer Migration Numbers⁵ show an increase in each electric distribution company's monthly RDR total customer number, with the first three-quarters of 2001 (January-September), showing the electric distribution companies on track to match their 1999 numbers.

Outside factors may have contributed to the increased enrollment in 2001; notably the increase in electricity bills associated with higher fuel costs and the electric distribution companies' increased community outreach efforts in the winter of 2001.

⁵ DOER collects monthly data from the electric distribution companies as to the number of customers it serves on each of its rates.

To place the RDR numbers into a larger context, DOER compared the estimated 1999 total number of RDR eligible households (489,387) to the 1999 RDR enrollment numbers.⁶ The data shows that approximately twenty-seven percent of those households eligible for the RDR actually enrolled as RDR customers.

These results indicate that despite substantial compliance with most portions of the outreach guidelines, the electric distribution companies still failed to reach the majority of those RDRE households in their service territories in 1999.

The annual filings indicate that the electric distribution companies reached less than a third of discount rate eligible households. DOER believes that implementation of additional steps is necessary to ensure that a majority of eligible households receive the benefits to which they are entitled.

Question 2: Describe current procedures used for subscriber eligibility verification and enrollment.

A. Criteria for Qualification

In issuing its recent Findings and Recommendations, DOER specifically addressed the issue of eligibility verification. To qualify for the Residential Discount

⁶ The 1999 DOER income eligible households' figures were derived by using the following formula. The 1998-1999 MISER (Mass. Institute of Social & Economic Research) low-income eligible households in Massachusetts at 175 percent of the Federal Poverty Level minus the 13 percent of that population in municipal utilities' territories, multiplied by the 1990 census percentage of the eligible households at 175 percent of the Federal Poverty Level for each distribution company. This same formula was used for the energy efficiency income eligible households' figure in DOER's **1999 Energy Efficiency Report**.

Rate ((RDR), a household member must receive a means tested public benefit (such as Transitional Assistance) or be eligible for the Low-Income Home Energy Assistance Program (LIHEAP) and have a total household income not exceeding 175 percent of the Federal Poverty Level.⁷

B. Modes of Verification

DOER's 1998 "Outreach and Eligibility Guidelines" provides two options for the electric distribution companies to choose from:

?? **Option One:** To protect client confidentiality, an agency requires a utility to select a mailhouse to process client information. The agency enters a non-disclosure agreement with the utility and with the selected mailhouse concerning confidentiality of client information. In the event a client does not receive, or loses a personalized application; the utility company will prepare and mail a blank application to the customer that they can fill out and mail to the utility.

?? **Option Two:** Yearly, the agency mails a card to its client indicating the customer's eligibility for a discount rate. The client also receives concise, simple instructions explaining how to fill out, sign, and return the card to the utility along with the monthly bill. Upon receipt of the card, the utility will complete registration of the client.

⁷G.L. c 164, § 1F (4) (i).

C. Current Practice

All of the electric distribution companies selected Option Two, that is, to work with the agencies to verify eligibility rather than using an independent mailhouse. This option puts the burden on the client (benefit recipient) to return the card, rather than on the electric distribution companies to sign up these clients.

Question 3: Discuss whether current subscriber eligibility standards would permit utilities to enroll each other's customers in discount programs.

Since they use similar criteria to establish eligibility for their discount programs,⁸ gas and electric utilities should not encounter insurmountable problems with the exchange of data for enrolling each other's customers on the discount rate. While there is a privacy concern related to the exchange of customer information, the Department's past order on competitive markets (D.T.E. 01-54) allows electric distribution companies to exchange customer information with competitive suppliers. This demonstrates that it is possible to exchange customer information between separate companies.

As stated above, all electric distribution companies elected Option 2 when presented with a choice of outreach vehicles in DOER's Guidelines.

⁸ To receive the electric or gas residential discount rate, the customer must receive a means tested public benefit or be eligible for the Low-Income Energy Home Assistance Program, or its successor program for which eligibility does not exceed 175% of the Federal Poverty Level based on a household's gross income. G.L. c. 164, § 1F (4)(i) and 220 C.M.R. § 14.03 (2A).

Eligibility for the Lifeline & Linkup programs is established upon verification of a low-income customer's participation in one of five federal programs: Medicaid, Food stamps, Supplemental Security Income ("SSI"), Federal Public Housing Assistance, or the Low-Income Energy Assistance (LIHEAP"). 47 C.F.R. § 54.409 (b)

Question 4: Discuss strategies for addressing varying income requirements of public benefit programs.

A. Current Requirement Disparities

All three utility discount rates use the receipt of certain public benefits as a qualifier for receiving their discount rate⁹. Among the programs used by all of the utilities to determine eligibility are Medicaid, Transitional Assistance, Social Security Income (SSI), and the Low-Income Home Energy Assistance Program (LIHEAP). The electric distribution companies encounter enrollment obstacles when the benefit's level, established by a means-test, is higher than the eligibility level for the discount rate, as is the case with the electric and gas discount rates.¹⁰ The gas and electric rates have a household income ceiling of 175% of the Federal Poverty Level (FPL)¹¹ while LIHEAP is capped at 200% of the FPL. This requires the Community Action Program agencies (CAPs) that process the LIHEAP applications to identify and separate those applicants whose income is above the 175% of the FPL before submitting customer names to the utilities.

For those customers who may not be eligible for LIHEAP but receive another qualifying benefit, utilizing computer matching between the utilities and the state and federal benefits agencies is the best method for ensuring enrollment of eligible customers. Furthermore, the utilities should work with the state and federal benefit agencies to implement a system that separates recipients by income levels. Currently, LIHEAP

⁹ Id.

¹⁰ G.L. c. 164, § 1F (4)(i) and 220 C.M.R. § 14.03 (2A).

¹¹ Id.

requires its intake agencies to separate applicants into four income levels, including those at 175% of the FPL.

B. Past Incongruity Of Public Benefit Program Thresholds

Since the publication of DOER's Guidelines, we have become more aware of the disparity of treatment between public program beneficiaries. When DOER began receiving electric distribution companies' data, the RDR eligibility of 175% of the FPL was higher than most means-tested public benefits, which were at or below 150% of the FPL, including LIHEAP. This irregularity meant that some customers, who met the income eligibility standard, were not eligible to receive the RDR. They did not receive the means tested public benefits that were capped below 175% of the FPL but greater than 150% and were ineligible to receive LIHEAP at 150% of the FPL in the 1998/1999 winter heating season. In effect, there was a dual eligibility requirement that some customers simply could never meet.

This uneven treatment was less of an issue in 1999/2000 when LIHEAP increased its eligibility to the 175% of the FPL and other means tested public benefits increased their eligibility level. In the reports submitted to DOER for the year 2000, some electric distribution companies reported problems verifying the eligibility of consumers receiving means tested public benefits who were above the 175% (i.e. Senior Pharmacy- now known as Universal Care). In 2000/2001 LIHEAP's eligibility increased to 200% of the FPL. This latest development signifies that the reverse of the earlier problem is now true. Currently, some customers eligible for fuel assistance are not eligible for the RDR.

Question 5: Discuss whether utilities could implement a computer-matching program to verify subscriber eligibility and enroll eligible customers in discount programs.

Currently, customers receiving qualifying benefits must opt-in by completing an additional form to receive the discount rate. The DOER believes that the experience of other public agencies both inside and outside the Commonwealth support the view that a computer matching program can be instituted to verify and enroll eligible customers. We urge the Department to adopt the statutory option that involves computer matching between electric distribution companies and benefits agencies. M.G.L c.164, § 1F (4)(i).

As proposed in Option Two of DOER's Eligibility Guidelines, the mailhouse informs the electric distribution companies of the identity of those customers who are eligible for the discount rate. The electric distribution companies then assign the customers to the RDR. This proposal streamlines the process and removes the customer's obligation to submit an application. Most of the electric distribution companies employ some type of electronic record swapping to assist in verifying eligibility. Both the Department of Transitional Assistance and LIHEAP use this process, but not for all qualifying benefits. DOER proposes that this system should be implemented throughout all the benefit agencies.

New York State implemented a computer-matching program to alleviate the application burden on utility customers. The telephone utility, Verizon, administers the

program. Verizon offers the federally mandated Lifeline program, providing discounted telephone rates for income eligible customers. To ensure that all customers receiving public benefits receive Lifeline, New York reached an agreement with Verizon to set up an independent third party mailhouse that matches Verizon's customer names against the names of people receiving benefits. Verizon and the mailhouse negotiated and executed privacy protection agreements with the state and federal benefit agencies. Now, when Verizon receives the matching names, it automatically enrolls the customer in the Lifeline program and sends a card informing him/her of the enrollment. The customer then has the prerogative to opt-out of the program if he/she so desires.

Question 6: Discuss whether any legal impediment exists to enrolling eligible customers in all available discount programs.

Given that the statute already provides for the possibility of an automated matching program and that some probative experience with other public benefits discount programs exists here and in other jurisdictions, we discern no legal impediment which would prevent the installment of a "one-stop shopping" qualification process.

At a minimum, the electric distribution companies must streamline the intake process for RDR customers. The verification process used to determine the RDR eligibility lacks uniformity. State agencies use dissimilar procedures and methods to manage information. Wherever possible, the electric distribution companies must work with state agencies to harmonize the intake and income eligibility verification processes across relevant agencies.

The experience of other states' public agencies suggests that there are ways to facilitate a single customer intake and verification procedure covering multiple utility discount programs. In California, the Sacramento Municipal Utility District (SMUD) uses a universal waiver to allow SMUD and social service agencies to exchange customer/client information for their energy efficiency programs. The universal waiver negates the need for a customer to fill out numerous forms to receive a program. SMUD and the social service agency simply exchange the customer information, SMUD determines customer eligibility and then contacts the customer to set up appointments for energy efficiency services in his/her home.

Question 7: Discuss privacy concerns related to electronic sharing of financial or other confidential information.

All parties must be sensitive to privacy concerns and strict confidentiality of personal data. Notwithstanding these real concerns, DOER believes that existing programs that use automated information exchanges appear to provide sufficient privacy safeguards. The above referenced Verizon Lifeline program implemented in New York State appears to demonstrate adequate privacy protections.

Conclusion

The combined data gathered by DOER and the electric distribution companies reveals that approximately twenty-seven percent of those households eligible are receiving the RDR. While this is comparable to the number of Massachusetts households served by the fuel assistance program (twenty-five percent), this penetration rate still represents less than half of eligible households.

In an effort to reach those eligible households not currently receiving the RDR, DOER states its willingness to revise its existing Outreach Guidelines in conjunction with a Department determination to install new programs. We recommend the implementation of two new programs: (1) the use of computer matching between utilities and the state and federal agencies offering qualifying benefits for the RDR and; (2) the creation of a universal waiver form to streamline the intake procedures of state and federal agencies offering qualifying benefits. To facilitate these improvements, we support the execution of privacy agreements between state and federal benefit agencies and the independent mailhouse to ensure that privacy concerns are protected. We are persuaded by New York's example that similar agreements can be executed in Massachusetts by both benefit agencies and utility companies. The DOER requests that the DTE urge the electric distribution companies to continue working toward full compliance with DOER's Outreach & Eligibility Guidelines.

Should the Department adopt the aforementioned recommendations, DOER is committed to working with the Department and the electric distribution companies to ensure these improvements are adopted quickly. DOER will continue to monitor the electric distribution companies' activities through our review of their annual reports. If the facts warrant, DOER may propose further additions and revisions to those activities.

Respectfully submitted,

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